

Attachment 3

Memo from Staff to Board Deputies
November 10, 2005



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



November 10, 2005

James E. Hartl AICP
Director of Planning

TO: Nicole Englund, First District
Mike Bohlke, Second District
Vivian Rescalvo, Third District
Curt Pedersen, Fourth District
Paul Novak, Fifth District

FROM: Julie Moore,  AICP, Head
Community Studies I Section

SUBJECT: AFFORDABLE HOUSING AND DENSITY BONUSES

On November 16, 2005, County Counsel staff will walk us through State Density Bonus Law (Govt. Code Section 65915 et seq.) at our meeting from 3:00–5:00 p.m. in Room 739 Kenneth Hahn Hall of Administration. Several Board Offices requested additional information, which we have provided in this memo in order to maximize our discussion time on November 16th. We are also including our additional comments on how the density bonus program helps to address the need to increase the production of affordable housing in the unincorporated area. At our upcoming meeting, we will display a map showing the location of residential developments approved with “density bonuses” in the past ten years, in order to consider the potential opportunities that are present as the Department of Regional Planning (Department) prepares revisions to the draft ordinance.

Current Events Highlight the Need

In recent months, the Los Angeles Times has reported on the homeless population in Los Angeles County, specifically focusing on the dire situation facing individuals and families on Skid Row in the City of Los Angeles. This special needs population requires an amount of affordable housing that exceeds the existing supply of affordable housing that is currently available within the cities and the unincorporated area, therefore strategies are needed that specifically promote the production of affordable housing, particularly service-enriched housing for special needs groups. Such housing will not be built in sufficient numbers unless our cities and the County can implement a coordinated approach that emphasizes “housing first” to build our capacity within the region to house formerly homeless individuals and families.

The Board of Supervisors (Board) has taken a leadership role in addressing homelessness and has directed key County departments to convene a task force responsible for

preparing a strategic plan that guides County efforts to provide housing, operational subsidies, and supportive services for the County's special needs populations. Since March 2005, the Department has been a member of the Special Needs Housing Alliance which was formed by the New Directions Task Force to participate in the development of the strategic plan. The Strategic Housing Plan for Special Needs Populations in Los Angeles County was submitted to the Board in October.

Affordable housing, and special needs housing in particular, is difficult to develop because it requires sufficient available land, capital (funding), a barrier-free land use entitlement process, and additional incentives to ensure development feasibility. Enhancing the provision of density bonuses and incentives is the primary regulatory tool that we have to facilitate the development of affordable housing in the unincorporated area. The specific enhancements to the density bonus program that are needed include process streamlining, administrative reviews as opposed to lengthy discretionary review procedures and the provision of by-right incentives that are clearly identified. The County also needs to increase the available supply of land that is planned and zoned for higher density development and/or multi-family housing.

More Affordable Housing is Needed

The County's experience suggests that more substantial measures are required to address the significant need for affordable housing. In our annual (2005) progress report to the Board on the General Plan, the Department noted that we have much more to do to stimulate the production of affordable housing in the unincorporated area. According to *Attachment I*, the County has achieved less than 10 percent of its regional fair-share housing goals for low- and very-low income dwelling units for the period 1998-2005. This indicates a deficit of 7,260 low-income units and 8,363 very-low income units from the goals determined by the State of California and the Southern California Association of Governments (SCAG). The County's Housing Element, adopted by the Board in 2001, and conditionally-certified by the State of California, identifies the Density Bonus program as the principal incentive program for promoting affordable housing.

At our upcoming meeting, we will provide you with information on the number of density bonus projects approved by the County in the past ten years, and identify the location of these developments by Supervisorial District. We hope to also provide you with a list of residential developments that received funding from the CDC. This information should identify where opportunities for affordable housing have been realized in the last ten years, which may indicate where future developments may provide affordable housing and utilize density bonuses.

Based on our prior experience with actual developments utilizing the County's present density bonus program, we will not see a significant response from the private sector unless the County offers density bonuses and incentives that go beyond the basics mandated by State Density Bonus Law.

Encourage Voluntary Participation Through Incentives

It has become increasingly difficult to develop affordable housing. An important objective for the County could be to adopt a flexible approach that supports affordable housing through the provision of by-right incentives that maintain appropriate safeguards for health, safety, historic resources, and the physical environment.

To accomplish this goal, the planning staff has been developing a draft “menu” of incentives, which identifies reasonable modifications to several Zoning Code development standards. The menu concept is desirable because it would provide more certainty in the process while encouraging housing development projects to conform to reasonable and meaningful specified incentives. The Regional Planning Commission has instructed staff to provide them with the draft menu for their consideration along with the revised draft density bonus ordinance in the upcoming months. The draft menu is included in **Attachment 2**, and we would appreciate any comments that you may have regarding the menu concept, draft selections, and associated process. Please be advised that the menu may change substantially during the Commission’s review, and so you may see a considerably revised version when this reaches the Board next year.

Offering meaningful and responsible regulatory incentives via the density bonus program and through a “menu” could go far in encouraging affordable housing production in an appropriate manner, and through a “voluntary” program. It is important to explore voluntary programs and determine their relative success, prior to considering mandatory programs such as inclusionary zoning.

You may be aware that several cities within Los Angeles County and a number of jurisdictions throughout California have adopted inclusionary housing programs. Such programs mandate that all residential development projects (usually exceeding a certain threshold number of units) provide specified amounts of affordable housing, or in some instances in-lieu fees be paid, to help meet local affordable housing goals. The City of Los Angeles is currently considering inclusionary zoning for some or all of the city and currently only has this requirement in limited areas. In 2002, the Board of Supervisors adopted an inclusionary housing policy that is limited to the area covered by the Marina del Rey Local Coastal Plan, as a means to implement the State’s Mello Act requirements for this coastal community. At this point, we are not convinced that further expansion of inclusionary housing requirements to other areas is needed, particularly since the County has not exhausted pursuing other avenues to enhance voluntary programs that facilitate much needed affordable housing.

Streamlining the Process Makes Sense

An immediate way to improve the production of affordable housing is to shorten the time to review and issue permits and other land use entitlements. Certainty in the land development approvals process is a key factor which directly influences the financial

feasibility of residential development projects. Time is money, so it makes sense to promote process streamlining, including administrative reviews, and more time-efficient processes that maintain the necessary safeguards for health, safety, historic resources, and the physical environment.

Existing Land Use Controls

Existing zoning contains limits regarding the type of land uses that are allowed in certain zones to ensure harmony of uses and development types. This includes our Community Standards Districts that, in some areas, may also regulate land uses, development standards, and the review processes that are applicable. In some of our unincorporated communities, significant planning has occurred to ensure that the Zoning Code contains distinctive requirements, so that one-size does not have to fit all.

So, how does the density bonus provisions relate to the countywide and community-level requirements? The State law does not allow for the selective application of the density bonus provisions by community or area, and so the County must conform to the requirements throughout the County as a whole. However, a density bonus would be limited to locations where residential uses are ultimately permitted. It should be noted that in our low-density zones (R-1, R-A, A-1, A-2), single-family residences are allowed, townhomes are allowed with a conditional use permit (CUP), and apartments are prohibited. The application of State density bonus law does not change these basic requirements. In Zone R-2 (two-family residence zone), single-family residences and duplexes are allowed, and townhomes and apartments require a CUP. In commercial zones (such as C-1, C-2, C-3), residential and mixed-use developments require a CUP. State law does not alter either of these requirements. Therefore, the density bonus requirements would work in conjunction with our existing land use limitations and with the applicable regulations within existing zoning to help maintain harmony and consistency between existing and future development.

It is unlikely that the density bonus program would be used in low density zones (R-1, R-A, A-1, A-2) except in cases where vacant land is being subdivided. In these situations, a tract map and an environmental document would be prepared which would be subject to required public hearings. It is expected that the density bonus provisions would be used most frequently in the County's multi-family residential zones, R-3 (30 du/acre) and R-4 (50 du/acre) because apartment houses are permitted in these zones by right.

Natural Constraints

Physical constraints (such as topography, and seismic or slope stability hazards), and lack of adequate infrastructure availability, may significantly affect the feasibility of affordable housing developments. This fact, combined with existing land use controls may explain, in part, why the Santa Monica Mountains, and suburban communities such as Rowland Heights and Hacienda Heights, have not benefited from the existing density

bonus program. However, if density bonus projects request incentives, then the housing developments must ensure that it will not have any significant effect on health, safety, historic resources, or the physical environment, in order to be approved.

Safeguards Are in Place

If there is a concern that the Department will “give away the farm,” there are built-in assurances that this would not happen, such as having control over what type and level of incentives selections are available “on-menu”, and adopting a review process which requires that the Department make specific findings that are supported by evidence in the record, and that “off-menu” projects would be subject to an appeals/call-for-review process that could involve a public hearing at the Regional Planning Commission.

The City’s Menu – How is it Faring and What Can We Learn?

The “menu” concept is patterned after a similar concept created by the City of Los Angeles. In June 2005, Department staff met with Jane Blumenfeld, principal planner at the City of Los Angeles Planning Department, to discuss the details of the City’s proposed ordinance shortly before our own public hearing at the Regional Planning Commission regarding the Department’s proposed density bonus ordinance. Ms. Blumenfeld described the “menu” as providing a balance between the certainty needed by the development community and maintaining the City’s comfort level with what could be approved by-right, while providing the neighborhood councils with the opportunity for public input into “off-menu” projects. Although the City Planning Commission approved the city’s density bonus ordinance and forwarded their recommendation to the City Council, there were some significant objections to the menu and the associated processes from individuals and groups on both sides of the fence. The ordinance was scheduled for a hearing at the Planning and Land Use Management (PLUM) Committee on November 1, 2005, however, the matter was removed from the agenda at the request of the Mayor’s Office, ostensibly to further review the ordinance in light of the Mayor’s recent proposal to promote a \$1 billion bond for affordable housing.

After careful consideration of the City’s menu concept, the County staff considered the City’s level of incentives offered “on-menu” to be relatively ineffective, particularly when testimony from developers at the public hearing expressed concern that the City’s on-menu selections were too few and not meaningful. In addition, the review processes selected by the City are lengthy and inappropriate considering that they are almost identical to existing “discretionary” processes. Moreover, it is believed that public confusion would result over the extent of “discretion” that the County could apply over density bonus projects. Having public review processes that do not allow for discretion to be applied may create a disaffected public who may become confused and angered at local officials because of the statutory limits for denying projects. The public may not appreciate being invited to attend a public hearing, downtown, on a weekday morning, only to be told that their concerns cannot be addressed because of statutory limits. We

feel that there are other options for receiving public input short of holding public hearings, which is why we are recommending an administrative review.

How is the County Responding to the Housing Crisis?

The County, through the Department of Regional Planning, has taken a number of steps to address the housing crisis, including the following:

- Housing Element adopted by the Board of Supervisors in 2001, conditionally-certified by the State Department of Housing and Community Development (HCD) in 2002;
- Housing Element contains 61 implementation programs to address housing need, supply, and affordability;
- Convened a Housing Advisory Committee to advise the Planning Department on ways to increase the production of affordable housing in the unincorporated area;
- Second Unit Ordinance adopted by the Board in 2004;
- Transit Oriented Districts adopted by the Board in 1999 and 2005 for areas surrounding the Blue Line and Green Line Stations to promote higher density and mixed-use development near transit;
- Initiated the preparation of an ordinance regarding Density Bonuses and incentives for affordable housing;
- Initiated a SCAG-funded effort, known as the “Los Angeles County Urban Infill Estimation Project,” to estimate the infill potential within the urban unincorporated area and to identify sites that are appropriate to support higher densities and multi-family affordable housing;
- Provided a report to the Board that recommends allowing mixed-use developments in commercial zones through an administrative procedure, as a means of encouraging the production of housing while supporting the economic revitalization of our commercial corridors.

In addition to the planning and regulatory programs administered by the Department, the Community Development Commission (CDC) is principally involved in promoting the development, rehabilitation, and maintenance of affordable housing within the County and participating cities. The CDC administers HOME, CDBG, and Industry Funds, and assembles land and provides technical assistance to support the production of affordable and special needs housing.

Conclusion

Although the recent changes to State Density Bonus Law became effective on January 1, 2005, the Department has not seen a significant increase in new density bonus applications. Although this could point to a lack of knowledge among potential developers regarding the density bonus provisions. It is probably more accurate that it is not a lack of understanding, but more the lack of certainty in the process and as to what

incentives the County will authorize that is inhibiting more new projects from utilizing the density bonus program. If we are creative in how we enhance the utility of the Zoning Code provisions and offer meaningful incentives, then our revamped density bonus program could measurably increase the production of affordable housing in the unincorporated area.

Should you have any questions, please feel free to contact me or Connie Chung at (213) 974-6425.

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Attachments: Attachment 1 – RHNA Construction Need and Income Distribution
1998-2005
Attachment 2 – Draft Menu of Incentives

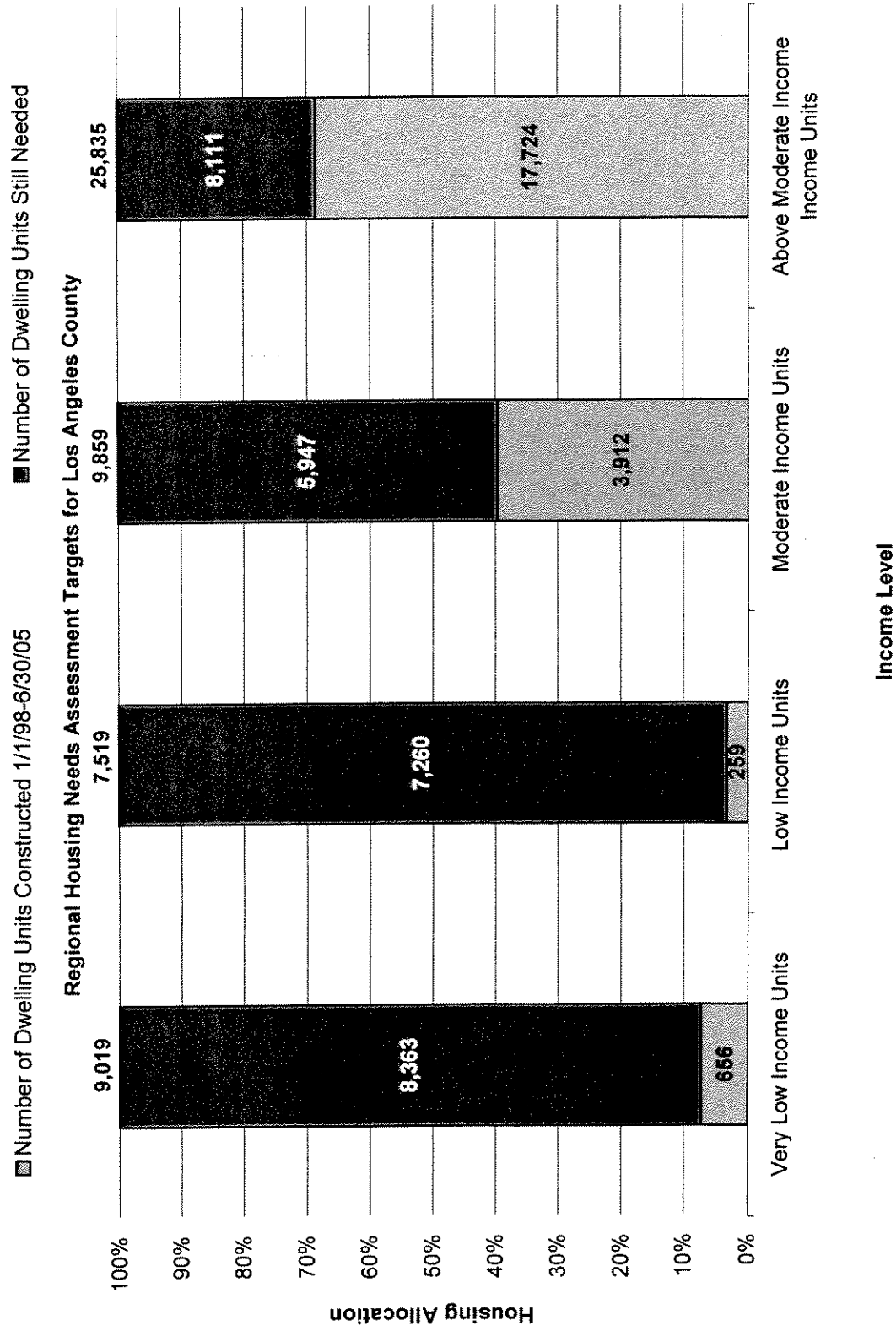
c: Regional Planning Commission (5)
Jim Hartl, Regional Planning
Jon Sanabria, Regional Planning
Ron Hoffman, Regional Planning
Larry Hafetz, County Counsel
Elaine Lemke, County Counsel
Blair Babcock, Community Development Commission

Attachment 1

Construction Need and Income Distribution 1998-2005

Construction Need and Income Distribution 1998-2005

All Districts



Density Bonus - Menu Concepts for Discussion****Housing Permit (Administrative) Director's Determination with Appeal (by applicant) to the Regional Planning Commission***

As an alternative to allowing each developer to propose any modification from Zoning Code provisions, the menu of incentives/concessions is intended to reflect reasonable and meaningful adjustments which are generally consistent with regulatory incentives historically approved for affordable housing developments by the County.

- **Yard/setback** – Up to a 35% modification from yard/setback requirements (each yard modification counts as one incentive). Where the project is CDC-sponsored through the County's Infill Sites Utilization Program and common wall development is proposed, the setbacks for these buildings may be reduced by 100% where the common-walls are at or intersect common/shared lot lines within the project site.
- **Building Height** – Up to 35% additional building height, such that for every additional foot in height above the maximum allowed in the basic zone, the portion of the building exceeding the basic height limit shall be set back an additional foot (and may be determined from a modified yard/setback) from adjoining residential properties, except that roof structures and architectural features may be allowed within the "stepped-back" portion up to 40 inches in height.
- **Stories** – An additional story may be included if building height conforms to either the height requirements of the basic zone or as modified through an on-menu incentive/concession.
- **Lot size** – Up to 35% modification from lot size requirements. Where the project is CDC-sponsored through the County's Infill Sites Utilization Program, up to a 50% modification from lot size requirements.
- **Lot width** – Up to 35% modification from lot width requirements. Where the project is CDC-sponsored through the County's Infill Sites Utilization Program, up to a 50% modification from lot width requirements.
- **Parking** – Parking requirements may be reduced for projects where 100% of the units are set-aside as "affordable" to low- and/or very-low income households and the site is at or within a 1,500 ft. radius of an existing or major bus center, bus stop along a major bus route defined as a bus route with a frequency of service interval of 15 minutes or less during the morning or afternoon peak commute periods, or a fully funded mass transit station; the additional reduced parking rates are:

For Each For-Sale/Ownership Unit (any number of bedrooms): 1.0 parking space

For Each Rental Unit:

0-1 Bedroom	0.75 parking space
2 or more bedrooms	1.5 parking space

For development projects that are CDC-sponsored through the County Infill Sites Utilization Program, the additional reduced parking rates are:

For Each Rental Unit:

2-3 Bedrooms	1.0 parking space
4 or more bedrooms	1.5 parking spaces

- **Density** – Up to 50% density bonus for projects where 100% of the units are set-aside as "affordable" to low- and/or very-low income households.

* **Project Prerequisites:** To qualify for on-menu bonuses and incentives, the housing development shall be outside of a Very High Fire Hazard Severity Zone as defined in Section 223-V of Title 32 of the LA County Code, and within an area that is served by a public sewer system; and within an area that is served by a public water system, and not within a significant ecological area as defined in Section 22.08.190 nor within an environmentally sensitive habitat area as shown on the sensitive environmental resources map of the Malibu Land Use Plan, and not on land having a natural slope of 25% or more. Where other discretionary approvals (i.e. Plan Amendment, Zone Change, Coastal Development Permit, Conditional Use Permit, etc.) are required to regulate land use, this menu is advisory only.

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Additional Requirements:

- Density bonus projects which are requesting and incentives/concessions would be required to submit the completed Initial Study Form.
- **Incentives/Concessions** may be denied if:
 - The project does not meet the requirements of CA Govt. Code Section 65915(b)
 - The project has not agreed to and ensured the continued affordability for the term specified in Govt. Code Section 65915(c)
 - The incentive/concession will have a specific adverse impact upon public health and safety, on the physical environment or on a property listed in the California Register of Historical Resources, and there is no way to reasonably mitigate or avoid the adverse impact without making the project unaffordable to moderate, lower or very-low income households; or
 - The incentive/concession is not required to provide for affordable housing costs or for rents for the targeted units to be set aside.

Appeals Process for Off-Menu Projects

- **Modified Appeals/Call for Review Process:** The applicant, adjacent property owners, and town council, or similar local community association may appeal the Director's decision (will be provided with a notice of decision), and/or the decision may be called up for review by the Regional Planning Commission. The Commission's decision is envisioned to be the final decision on the project. Time limits would apply to the appeal/call for review as follows:

Period during which appeal/call for review must be received by DRP staff:	15 days from receipt of the notice of decision by the applicant
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Period during which the RPC must hold a duly noticed public hearing and issue a decision on the project (or the project is deemed approved)	90 days from end of appeal period
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The aforementioned appeals/call for review process would not be applicable in cases where other discretionary applications are also submitted. In those cases, the appeals/call for review process applicable to the discretionary applications would apply for the combined cases.

Revised 11/10/05